

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FERNANDO GASTELUM,

Plaintiff,

v.

CENTRAL VALLEY HOSPITALITY LLC,

Defendant.

Case No. 1:21-cv-01079-NONE-SAB

ORDER VACATING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
DENYING PLAINTIFF'S APPLICATION
TO PROCEED *IN FORMA PAUPERIS*;
DENYING PLAINTIFF'S APPLICATION
TO PROCEED *IN FORMA PAUPERIS* AS
MOOT; AND DIRECTING CLERK OF THE
COURT TO ISSUE A SUMMONS AND
NEW CASE DOCUMENTS

(ECF Nos. 5, 6)

Fernando Gastelum ("Plaintiff"), proceeding *pro se*, filed a complaint in this action on July 12, 2021, bringing causes of action for violation of the Americans with Disabilities Act. (ECF No. 1.)¹ Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. On July 14, 2021, an order issued finding that Plaintiff's application to proceed *in forma pauperis* did not demonstrate entitlement to proceed in this action without prepayment of fees. (ECF No. 5.) Plaintiff was ordered to either file a long form application to proceed without prepayment of fees or pay the filing fee within twenty days. (*Id.*) On July 26, 2021, Plaintiff filed a long form application. (ECF No. 5.)

¹ The docket reflects this action was brought under 42 U.S.C. § 1983, and the Court will direct the Clerk of the Court to amend the docket to reflect that this action proceeds under the Americans with Disabilities Act.

On August 6, 2021, the Court issued findings and recommendations recommending that Plaintiff's application to proceed *in forma pauperis* be denied, and that he be required to pay the filing fee in this action. (ECF No. 6.) On August 17, 2021, Plaintiff paid the filing fee for this action. The Court has reviewed Plaintiff's complaint and finds that it contains sufficient factual allegations for a summons to issue.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's application to proceed without prepayment of fees, filed July 26, 2021 (ECF No. 5), is DENIED as moot;
2. The findings and recommendations filed August 6, 2021 (ECF No. 6), is VACATED;
3. The Clerk of the Court is DIRECTED to amend the docket to reflect that the action was brought pursuant to the Americans with Disabilities Act; and
4. The Clerk of the Court is DIRECTED to issue civil new case documents and a summons in this action.

IT IS SO ORDERED.

Dated: August 18, 2021


UNITED STATES MAGISTRATE JUDGE